

REMARKS

Amendments to the Claims

By this amendment claim 1 has been cancelled without prejudice and new claims 22 and 23 have been introduced to emphasize the key aspects of applicants invention that are more clearly distinguished over the prior art.

Claims 4-7, 9-13, 15, 17 and 19-21 have been amended to reflect their dependency on new claim 22.

No new matter has been introduced.

Present Invention

Applicants' invention is directed to a process of making wet-skin-treatment-compositions that are used in the shower after the skin has been cleaned with a conventional cleanser and is still wet. Applicant's discovered a process to make these emulsions which had proved difficult to prepare on a large scale. Applicants' found that simply mixing the separate structured oil phase and aqueous phase together as is conventionally practiced for oil-in-water emulsions led to large "lumps" of structured oil. Breaking down these lumps by employing prolonged stirring or increased shear was found to be difficult to control in large scale manufacturing equipment because of over-emulsification which resulted in smaller than optimal droplet size.

Applicants' surprisingly found that the lumps could be converted to uniform emulsified particles by passing the crude predispersion through a screen having an appropriate mesh size. This process proved convenient in preparing the emulsions on large scale without the need for additional and expensive equipment.

Claim Rejections – 35 USC § 103

In the Office Action mailed May 16, 2005, claims 1, 4-7, 9-13, 15-17 and 19-21 were rejected under 35 USC §103(a) as being unpatentable over Glenn, Jr. et al (WO 9625144 equivalent to US 6,080,708). Claim 19 and 21 were rejected under 35 USC §103(a) as being unpatentable over Glenn, Jr. et al (WO 9625144 equivalent to US 6,080,708) in view of Lockheed et al (US 5004,598).

Glenn Jr. et al is directed to stress stable lathering skin cleansing liquid compositions which are oil-in-water emulsions having a particle size between 0.1 and 100 microns. The process disclosed by Glenn Jr. et al to make these compositions is the "SINGLE VESSEL PROCESS" recited at column 17 lines 25-67. In step 8 of the process, Glenn Jr. et al states:

"A premix of lipid blend, (e.g. polybutene or mineral with petrolatum), at a temperature of 105-110° F (40-43° C), is added to the mixture at a temperature of 105-110° F (40-43° C), and allowed to stir for 2 minutes at a slow to medium setting. The duration and intensity of the mixing after lipid addition is considered important, especially with regards to particle size.

Accordingly, if mixed too long or too fast, particle size and the resultant deposition decreases."

Lockhead et al is directed to stable and quick breaking topical skin compositions having a particle size of 0.1 to 100 microns. The process disclosed by Lockhead et al to prepare these compositions is recited in Example 2 (column 10, lines 36 – 48):

Pursuant to the usual procedure, the emulsion was prepared by placing 85 weight parts of cold deionized water into a stainless steel jacketed kettle equipped with lightning agitation. The modified polymer of Example 1 in powder form in amount of 0.5 weight part was sprinkled into the water with rapid agitation. Agitation was continued for

about one half hour until a uniform dispersion of the modified polymer in water was obtained. Then, 14 weight parts of mineral oil was added to the kettle with rapid agitation followed by 0.2 weight part of triethanolamine neutralizing agent. Agitation was continued for about another one half hour until a uniform emulsion was formed.

Thus, both Glenn Jr. et al and Lockhead et al teach methods of emulsion preparation that only involve emulsification by mixing together the oil and water phases. There is no disclosure whatsoever of screens or meshes.

Applicants have found that the level of mixing control disclosed by Glenn Jr. et al and Lockhead et al required to form optimally depositing wet skin treatment compositions containing low levels of surfactant and having structured oil phases is very difficult to accomplish in large scale production equipment by a process that only employs stirring. In contrast, applicants' process involves making a predispersion of very large structured oil particles (size greater than 100 microns, preferably greater than 300 microns) and then passing the entire predispersion through a mesh screen having appropriate openings up to about 2000 microns (page 18, line 24 – page 19, line 3 and Example 1 page 38). According to this process the final particle size is controlled by the screen openings and passage through the screen can conveniently precede bottling (page 19, lines 10-11).

Applicants' submit that a person having ordinary skill in the art reading either Glenn Jr. et al alone or in combination with Lockhead et al would not have been motivated to explore alternative methods of preparing the structured oil - wet skin treatment compositions described in the instant invention because both references teach that usual simple mixing procedures are adequate.

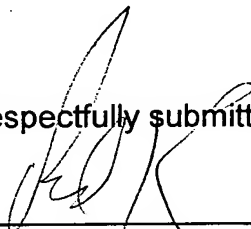
Furthermore, even if the artisan decided to modify the processes described by Glenn Jr. et al and Lockhead, there is nothing in the references that would have suggested pursuing the process recited in applicants' claims. That is both references are silent with respect to forming a large particle size predispersion and then passing

this predispersion through a screen having the critical mesh size indicated. Thus, the references would not have provided any direction for the artisan to first prepare a dispersion targeted to a particle size greater than 100 microns (i.e., greater than the desired size range recited in the references) and then to pass this dispersion through a screen assembly.

In light of the amendments and above remarks, applicants submit that amended claims 4-7, 9-13, 17 and 19-23 are not anticipated by Glenn Jr. et al (WO 9625144 equivalent to US 6,080,708) alone or in view of Lockhead et al (US 5004,598). Consequently, applicants' respectfully request that the 103(a) rejection be reconsidered and withdrawn and that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



Ronald A. Koatz
Registration No. 31,774
Attorney for Applicant(s)

RAK:sc
(201) 894-2912